

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

LUKASZ RUDKOWSKI,

Plaintiff,

- against -

MIC NETWORK INC.

Defendant.

Docket No. 17-cv-03647

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Lukasz Rudkowski (“Rudkowski” or “Plaintiff”), by and through his undersigned counsel, as and for his Complaint against Defendant Mic Network Inc. (“Mic” or “Defendant”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. Plaintiff brings this action for copyright infringement under Section 501 of the Copyright Act, arising out of Defendant’s unauthorized reproduction and public display of a video capturing a violent clash between supporters of President Donald Trump and anti-Trump demonstrators at a in Berkeley, California, owned and registered by Rudkowski, a New York City-based photojournalist. Accordingly, Rudkowski seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.* This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or is doing business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

### **PARTIES**

5. Rudkowski is a professional independent video journalist having an address of P.O. Box 140492, Brooklyn, NY 11214. Rudkowski is the founder of We Are Change, a nonpartisan independent media organization dedicated to exposing corruption worldwide.

6. Upon information and belief, Mic is a corporation duly organized and existing under the laws of the State of Delaware, with a place of business at One World Trade Center, 285 Fulton Street, 82nd Floor, New York, NY 10007. Upon information and belief, Mic is registered with the New York Department of State, Division of Corporations to do business in the State of New York. At all times material hereto, Mic has owned and operated a website at the following URL: [https:// mic.com](https://mic.com) (the “Website”).

### **STATEMENT OF FACTS**

#### **A. Background and Plaintiff’s Ownership of the Video**

7. On April 15, 2017, Rudkowski recorded video showing rioting and violence between pro-free speech demonstrators and Antifa protestors during a rally in Berkeley, California (the “Video”).

8. Rudkowski published the Video on his WeAreChange YouTube channel on April 15, 2017, under the heading *Berkeley Pro Free Speech Protesters Chase Out AntiFA*. A true and correct copy of the Video on YouTube is attached as Exhibit A.

9. Rudkowski is the author of the Video and has at all times been the sole owner of all right, title and interest in and to the Video, including the copyright thereto.

10. The Video was registered with the U.S. Copyright Office and were given pending Copyright Registration Number 1-4965903365. See Exhibit B.

**B. Defendant's Infringing Activities**

11. On April 16, 2017, Mic ran an article on the Website called *Berkeley riots: Video appears to show white supremacist Nathan Damigo punching protester*. <https://mic.com/articles/174306/berkeley-riots-video-appears-to-show-white-supremacist-nathan-damigo-punching-protester#.fVwj1gyNZ>. The article, by Mic news writer Alison Durkee, prominently featured a still image from the Video of white supremacist Nathan Damigo punching a female protester (the "Photograph"). A true and correct copy of the article is attached hereto as Exhibit C.

12. Mic did not license the Photograph from Plaintiff for its article, nor did Mic have Plaintiff's permission or consent to publish the Photograph on its Website.

**CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST MIC)**  
**(17 U.S.C. §§ 106, 501)**

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. Mic infringed Plaintiff's copyright in the Video by reproducing and publicly displaying the Photograph on the Website. Mic is not, and has never been, licensed or otherwise authorized to reproduce, publicly display, distribute and/or use the Photograph.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the aforementioned acts of infringement by Combo have been willful, intentional, and purposeful, in disregard of and with indifference to Plaintiff's rights.

17. As a result of Defendant's infringement of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to recover his damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

18. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed, in the event Plaintiff proves that Defendant's infringement of the Video was willful, 17 U.S.C. § 504(c).

19. Plaintiff further is entitled to his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

20. Defendant's conduct, described above, is causing and, unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Mic be adjudged to have infringed upon Plaintiff's copyright in the Video in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Video; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. §§ 505;

5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: March 15, 2017  
Valley Stream, New York

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